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**WHITE & CASE**  
LIMITED LIABILITY PARTNERSHIP

1155 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10036-2787

TELEPHONE: (1-212) 819-8200  
FACSIMILE: (1-212) 354-8113

DIRECT DIAL: 1-212-819-8830

E-MAIL: jscheibeler@whitecase.com

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**Date:** November 10, 2003 **No. of Pages (including cover):** 2

**To:** Examiner Elizabeth McElwain **Fax Number:** 1-703-872-9306  
**U.S. Patent and Trademark Office** **Contact Number:** 1-703-308-1794

**From:** John Scheibeler **Reference No.:** 1104628-0016

**R :** **U.S. Patent Appln. Serial No. 09/988,462**

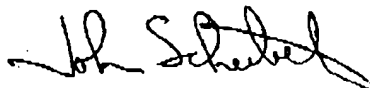
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Dear Examiner McElwain:

Per our conversation earlier today regarding application serial no. 09/988,462, attached is a copy of the Terminal Disclaimer re U.S. Patent No. 6,320,100, which I attached to my facsimile dated November 6, 2003, but you apparently did not receive.

Please contact me if you have any questions.

Sincerely,



John Scheibeler, Reg. No. 35,346  
Attorney for Applicants  
Customer No. 007470  
White & Case LLP

PTO/SB/26 (08-03)

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Docket Number (Optional)

1104628-0016

In re Application of: Koziel et al.

Application No.: 09/988,462

Filed: November 20, 2001

For: Synthetic DNA Sequence Having Enhanced Insecticidal Activity in Maize

The owner\*, Syngenta Investment Corp., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,320,100. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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